

**REMARKS/ARGUMENTS**

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-11 are pending in the present application. Claims 1-5, 10-11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5, 9-10 of Kitaguchi et al. (U.S. Pat. No. 6,686,954, hereinafter "Kitaguchi"), Claims 6-8 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of Kitaguchi in view of Namerikawa et al. (U.S. Pat. No. 6,089,090), and Claim 9 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of Kitaguchi in view of Hasegawa (U.S. Pat. No. 5,900,927).

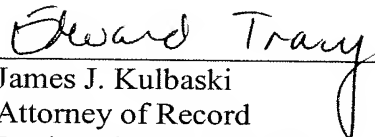
With regard to the non-statutory double patenting rejections of Claims, 1-5, 10-11 over Kitaguchi, Claims 1-2 over Kitaguchi in view of Namerikawa et al., and Claims 1-2 over Kitaguchi in view of Hasegawa, those rejections are respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Accordingly, the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
James J. Kulbaski  
Attorney of Record  
Registration No. 34,648

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)

Edward W. Tracy, Jr.  
Registration No. 47,998